S. No. 151
Suppl.

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

WP(C) 2019/2024
CM(5395/2024)

M/S SABEEL STONE CRUSHER …Petitioner(s)/Appellant(s)

Through: Mr. Bhakat Parvaiz, Advocate

Vs

UNION TERRITORY OF J AND K ...Respondent(s)

AND ORS

Through:

CORAM:
HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER
04.09.2024

1. Instant petition has been filed by the petitioner challenging the communication issued to him by respondent No. 6 through an e-mail. The impugned communication stated that the petitioner had failed to upload the requisite No Objection Certificate (NOC) from the concerned Deputy Commissioner which is mandatory under S.O 60, as per Circular No. JKPCC/PS/MS/2024/2678-84 dated 06.02.2024 issued by Jammu and Kashmir Pollution Control Committee (JKPCC). Petitioner has sought a direction upon the respondents to grant Consent to Establish (CTE) a Stone Crusher under the name and style of M/s Sabeel Stone Crusher at Sehpora, Magam, Budgam, based on his online Application No. 4440536 dated 19.02.2024 strictly in pursuance to the report submitted by Tehsildar, Magam bearing No. 423/OQ/TM/2024 dated 19.01.2024.

Factual Matrix:

2. Petitioner had filed an application before respondent No. 4 seeking issuance of an NOC for establishing a stone crusher. Respondent No. 4, vide communication dated 17.10.2023, forwarded the application of the petitioner to Tehsildar, Magam, for verification in accordance with Rule 3(3)(ii) of the Jammu & Kashmir Stone Crushers/Hot & Wet Mixing Plants Regulation Rules, 2021 notified vide S.O 60 dated 23.02.2021.

The Tehsildar Magam in pursuance to the communication dated 17.10.2023, submitted a detailed report on the basis of spot visit and revenue extracts indicating that the Stone Crusher/Hot & Wet Mixing plant can be established on the petitioner's land, subject to obtaining NOCs from other departments.

3. Learned counsel for the petitioner has stated at Bar that while some departments have granted the necessary NOCs, the revenue department has failed to issue the required NOC.

4. From the perusal of the annexures, it is evident that the petitioner inadvertently applied for the NOC before the Additional Deputy Commissioner, Magam, in the year 2023. As per the stipulations of S.O. 60 dated 23.02.2021, the petitioner was required to submit the application before the Deputy Commissioner, Budgam.

5. The relevant provisions of S.O. 60, dated 23.02.2021, stipulate that the establishment and operation of a Stone Crusher/Hot & Wet Mixing Plant are conditional upon securing the following:-

> "***(3) Stone Crusher/Hot and Wet Mixing Plant shall establish/operate only on securing.—***
>
> *(i) Consent to establish/operate from the Jammu and Kashmir Pollution Control Board issued as per the procedure/guidelines and siting criteria prescribed by the Jammu and Kashmir Pollution Control Board;*
>
> *(ii) No Objection Certificate from Deputy Commissioner concerned regarding title verification of land and its usage; and*
>
> *(iii) Registration with the District Industries Centre (DIC) if the unit holder intends to avail any incentives available in the Industrial Policy".*

6. Be that as it may, instant petition is disposed of with a direction to the petitioner to file an application strictly in terms of S.O 60 dated 23.02.2021 before the competent authority i.e., Deputy Commissioner, Budgam within one week from the date of this order. Deputy Commissioner, Budgam is directed to consider the claim of the petitioner and pass appropriate orders within a period of four weeks' thereafter.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR
04.09.2024

Amir Rashid Shah
I attest to the accuracy and
authenticity of this document
05.09.2024 10:22